Appendix: Correspondence

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

Restoration Center Northwest
NMFS Northwest Regional Office F/NWO
7600 Sand Point Way, N.E.
Seattle Washington 98115-0070

13 February 1998

Bennie J. Armstrong
Chair, Suquamish Tribal Council
Suquamish Tribe of Indians
P.O. Box 498
Suquamish, Washington 98392

Re: Requesting Notification of Tribal Cultural Sites

Dear Mr. Armstrong:

Site specific restoration plans and environmental assessments (EA) are being prepared for Elliott Bay and the lower Duwamish River, Puget Sound, Washington, under the federal natural resource trustee lead of NOAA. The restoration work is in accordance with the Elliott Bay/Duwamish River Restoration Program (EBDRP), a cooperative, inter-governmental program established under a consent decree to help restore natural resources injured by pollution. The geographic area of interest includes sites in the waters and along the immediate shorelines of Elliott Bay and the lower Duwamish River (see attached site map).

As part of our environmental documentation and in compliance with the National Environmental Policy Act, we are requesting a listing of any tribal or otherwise significant cultural feature, historic or contemporary, known to exist at or near these sites.

The Suquamish Tribe is a trustee member of the EBDRP Panel. Margaret Duncan, Suquamish Tribe Panel Representative, and Charlie Sigo, Suquamish Tribal Curator and Archivist, have undoubtedly kept the Tribe informed about EBDRP affairs. They, along with Leonard Forsman, will continue to keep the Tribe advised about site specific plans and restoration activities.

Thank you for your assistance in this request on behalf of the natural resource trustees.

Sincerely yours,

Robert C. Clark, Jr., Director

Attachment

cc. G. Siani, NOAA DARC, Seattle
M. Duncan, Suquamish Tribe

Voice (206) 526-4338/4348 FAX (206) 526-4321/6665

FISHERIES DEPARTMENT
Area Code (360)
598-3311
Fax 598-4666

THE SUQUAMISH TRIBE
P.O. Box 498 Suquamish, Washington 98392

11 March 1998

Robert C. Clark, Jr.,
Administrative Director
Elliott Bay/Duwamish Restoration
Program Panel
c/o Restoration Center/NW
National Marine Fisheries Service - NOAA
7600 Sand Point Way NE
Seattle, WA 98115-0070

Dear Dr. Clark:

Thank you for your letter of 13 February 1998 concerning notification of project sites and features of cultural importance to The Suquamish Tribe within the program area of the Elliott Bay/Duwamish Restoration Program.

Charlie Sigo, Suquamish Tribal Curator and Archivist works closely with Margaret Duncan, who serves as the Suquamish Tribe's representative on the Panel, concerning project site selection, investigation, and design. Leonard Forsman, the Secretary of the Tribal Council, is also kept informed of the Panel's process and selection of project sites.

As project sites are selected, we have provided input concerning cultural resources and have enjoyed continuous consultation. Thus far, we have received excellent cooperation from the project manager for the North Wind Weir site as well as project team leaders for the Seaboard Lumber site. We expect that this cooperation will continue as restoration and remediation work progresses, and will certainly notify you should there be any change in our current level of access and satisfaction.

Thank you for your continued sensitivity and cooperation.

Sincerely,

Merle A. Hayes
Vice-Chairman
Suquamish Tribal Council

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

Restoration Center Northwest
NMFS Northwest Regional Office F/NWO
7600 Sand Point Way, N.E.
Seattle Washington 98115-0070

13 February 1998

John Daniels
Chair, Muckleshoot Tribal Council
Muckleshoot Indian Tribe
39015 172nd Avenue S.E.
Auburn, Washington 98002

Re: Requesting Notification of Tribal Cultural Sites

Dear Mr. Daniels:

Site specific restoration plans and environmental assessments (EA) are being prepared for Elliott Bay and the lower Duwamish River, Puget Sound, Washington, under the federal natural resource trustee lead of NOAA. The restoration work is in accordance with the Elliott Bay/Duwamish River Restoration Program (EBDRP), a cooperative, inter-governmental program established under a consent decree to help restore natural resources injured by pollution. The geographic area of interest includes sites in the waters and along the immediate shorelines of Elliott Bay and the lower Duwamish River (see attached site map).

As part of our environmental documentation and in compliance with the National Environmental Policy Act, we are requesting a listing of any tribal or otherwise significant cultural feature, historic or contemporary, known to exist at or near these sites.

The Muckleshoot Tribe is a trustee member of the EBDRP Panel. Roderick Malcom, Muckleshoot Tribe Panel Representative, has undoubtedly kept the Tribe informed about EBDRP affairs. He will continue to keep the Tribe advised about site specific plans and restoration activities.

Thank you for your assistance in this request on behalf of the natural resource trustees.

Sincerely yours,

Robert C. Clark, Jr., Director

Attachment

cc. G. Siani, NOAA DARC, Seattle
R. Malcom, Muckleshoot Tribe

Voice (206) 526-4338/4348 FAX (206) 526-4321/6665

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

Restoration Center Northwest
NMFS Northwest Regional Office F/NWO
7600 Sand Point Way, N.E.
Seattle Washington 98115-0070

June 30, 1998

Memorandum For: Seaboard Lumber Project File

From: John Miller
Restoration Center NW

Subject: Consultation with Muckleshoot Tribe

Despite repeated attempts via memo to the Tribal Chair, phone calls, and personal conversations with Glen St. Amant, Muckleshoot representative to the Elliott Bay/Duwamish Restoration Program Panel, no letter regarding the Seaboard Lumber Site Aquatic Restoration Project has been forth coming from the Muckleshoot Tribe. However, Mr. St. Amant and Roderick Malcom, Muckleshoot representative to the EBDRP Technical Working Group, have been involved in the project decision -making from the beginning. They have relayed information back to the Tribal Chair and kept the appropriate Tribal members informed as to the project. They also were given draft copies of the EA to comment on, but no comments were received from either person.

Voice (206) 526-4338/4348 FAX (206) 526-4321/6665

City of Seattle
Paul Schell, Mayor

Seattle Department of Parks and Recreation
Kenneth R. Bounds, Superintendent

June 29, 1998

John Miller
NOAA Damage Assessment Center
7600 Sand Point Way N.E.
Seattle, WA 98115

Subject: SEABOARD AQUATIC HABITAT RESTORATION
Archeological Determination of Effect

Dear Mr. Miller:

Enclosed please find a copy of the determination of effect, prepared by Larson Anthropological and Archeological Services for my signature, for the proposed Seaboard Aquatic Habitat Restoration project. The determination notes precautions incorporated into the project plans to protect archeological resources, and is being sent to the State Office of Archeology and the Muckleshoot, Suquamish, and Duwamish Tribes for concurrence.

Please do not hesitate to call me at 684-7053 should you have need of any further information to complete the environmental assessment.

Sincerely,

Kevin Stoops,
Project Manager

Encl

KBS

City of Seattle

Paul Schell, Mayor

Seattle Department of Parks and Recreation
Kenneth R. Bounds, Superintendent

June 30, 1998

Dr. Robert G. Whitlam, State Archaeologist
Office of Archaeology and Historic Preservation
P.O. Box 48343
Olympia, Washington 98504-8343

RE: Seaboard Lumber Site Aquatic Habitat Restoration Project, Seattle, Washington
Determination of Effect of Proposed Construction Activities on the Duwamish No. 1 Site (45KI23)

Dear Dr. Whitlam:

The Seattle Department of Parks and Recreation requests a review of a Determination of Effect which documents effects of the proposed Seaboard Lumber Site Aquatic Habitat Restoration Project in Seattle, Washington, on the Duwamish No. 1 Site (45KI23), that is listed on the National Register of Historic Places (NRHP). Larson Anthropological Archaeological Services Limited (LAAS) reviewed final construction plans for the Seaboard Lumber Site Aquatic Habitat Restoration Project and determined that the proposed construction will not adversely affect intact archaeological deposits which are part of the Duwamish No. 1 Site (45KI23). This Determination of Effect describes the proposed project, briefly summarizes previous LAAS field investigations in the project area, outlines proposed in-place preservation of cultural deposits, and provides the rationale for a Determination of No Effect. By copy of this letter, we are is simultaneously sending the Determination of Effect to the Duwamish Tribe, the Muckleshoot Indian Tribe, and the Suquamish Tribe for review.

PROJECT DESCRIPTION

LAAS was retained in November 1998 by Lee and Associates to determine the existence and/or probability for cultural resources within the proposed Seaboard Lumber Site Aquatic Habitat Restoration Project in Seattle, Washington (Robbins et al. 1998). The project area is in the southern and eastern portions of the former Seaboard Lumber Company property, east of West Marginal Way and west of the Duwamish Waterway, in the SW 1/4, W 1/2 of Section 19, Township 24 North, Range 6 East, Willamette Meridian (Figure 1). The Seaboard Lumber Site will be acquired and developed by the City of Seattle for parks, recreation, open space, and river restoration. LAAS monitored excavation of geotechnical test pits and identified intact cultural deposits associated with the Duwamish No. 1 Site

(45KI23) in the southwest corner of the Seaboard Lumber Site Aquatic Habitat Restoration project area (Figure 1) (Robbins et al. 1998).

LAAS also recorded midden deposits which were previously disturbed during the complex history of land modification in the project area. LAAS prepared an addendum to the archaeological site form for the Duwamish No. 1 Site (45KI23) which described the extension of the site boundary. The intact cultural deposits in the southwest corner of the Seaboard Lumber Site have integrity and are also probably eligible for listing on the NRHP as part of the Duwamish No. 1 Site. Intact cultural deposits are beneath asphalt, a gravel subgrade, and approximately 20 to 30 centimeters of mixed historic debris and shell midden deposit (Robbins et al. 1998). Seaboard Lumber Site Aquatic Habitat Restoration Project plans called for additional fill placement as part of a proposed parking lot and landscaping berms (Figure 2). LAAS did not anticipate that the intact shell midden deposits would be adversely affected by fill placement. LAAS consulted with Dr. Robert G. Whitlam, State Archaeologist, Washington State Office of Archaeology and Historic Preservation (OAHP) to discuss appropriate measures to preserve the intact cultural deposits in place. LAAS recommended that intact Duwamish No. 1 Site (45KI23) cultural deposits in the southwest portion of the Seaboard Lumber Site should be avoided by any construction or operational activities that would disturb areas below the contemporary ground surface within the boundaries of the site.

REVIEW OF FINAL PROJECT PLANS

Recommendations offered by LAAS were incorporated into the final construction plans for the Seaboard Lumber Site Aquatic Habitat Restoration Project (Lee/Brennan Associates 1998). LAAS reviewed the final construction plans to insure that all recommendations were followed. Dr. Robert G. Whitlam, State Archaeologist, suggested placement of geotextile fabric on contemporary ground surfaces to serve as a stratigraphic marker for future construction excavation and also to keep contents of fill from moving down into the midden deposits. Dr. Whitlam also recommended keeping heavy construction equipment out of the area with intact midden deposits and to avoid using the area with intact midden for equipment staging. Both practices would limit unnecessary compaction of midden deposits.

LAAS reviewed final construction plans to determine the depth of fill placement on the intact midden deposits, provisions for laying geotextile fabric, depth of proposed irrigation lines, and types of vegetation proposed for berms. Most project maps mark the boundary of the intact shell midden deposits as a sensitive area but do not specifically denote the presence of an archaeological site (Lee/Brennan Associates 1998:Sheet 3). The area with intact midden deposits is marked as a "sensitive area" on demolition plans and has the following details: "no demolition zone, no excavation, or compaction in this area" (Lee/Brennan Associates 1998:Sheet 3). A buffer encompassing disturbed midden deposits is also labeled as "sensitive area buffer" with the following details: "no demolition zone, no excavation, or compaction in this area" (Lee/Brennan Associates 1998:Sheet 3). An existing concrete foundation on the south edge of the buffer zone is labeled as "saw cut existing concrete

foundation and leave in place" (Lee/Brennan Associates 1998:Sheet 3). Plans for site remediation show the midden and buffer of disturbed midden deposits as a sensitive area and sensitive area buffer (Lee/Brennan Associates 1998:Sheet 6). The remediation plan sheet has the following note: "Do not use the sensitive area or sensitive area buffer zone areas for staging" (Lee/Brennan Associates 1998:Sheet 6).

Midden and midden buffer boundaries are shown on the grading and drainage plan which will be used to construct berms and a parking lot in the intact midden area (Lee/Brennan Associates 1998:Sheet 5). LAAS previously identified the surface of intact midden deposits at an elevation of 13.5 feet above mean lower low water and beneath asphalt paving and historic fill (Robbins et al. 1998). The surface of the asphalt paving is at an elevation of approximately 15 feet above mean lower low water. Project plans show three fill depths and three types of construction proposed for portions of the intact midden. The west-central half of the midden would be covered with geotextile fabric, an additional four to five feet of fill would be placed on the fabric, and a parking lot would be constructed with a surface elevation ranging from 20.53 feet to 21.7 feet above mean lower low water, with a total of six to eight feet of fill on the midden (Lee/Brennan Associates 1998:Sheet 5). Construction details for the parking lot require installation of filter fabric over midden on subgrade and below fill (Lee/Brennan Associates 1998:Sheet 16). The east half of the midden would be covered with five to six feet of additional fill to form a berm with surface elevations ranging from 18 to 20 feet above mean lower low water, for a total of six to eight feet of fill covering the midden (Lee/Brennan Associates 1998:Sheet 5). The southwest portion of the midden, on Port of Seattle property, would be covered by fill forming a berm with surface elevations ranging between 22 to 29 feet above mean lower low water (Figure 2) (Lee/Brennan Associates 1998:Sheet 5). LAAS did not sample the southwest corner of the property because it is owned by the Port of Seattle. A pit feature and cultural strata were identified at elevations between 11.81 and 17.22 feet above mean sea level in 1985 during archaeological investigations of the Port of Seattle property (Robbins et al. 1998:14). Five to 12 feet of fill would be placed on the contemporary ground surface of the Port of Seattle property in the southwest corner of the Seaboard Lumber Site Aquatic Habitat Restoration project area and would cover unrecorded midden deposits which may be extant (Figure 2).

LAAS reviewed irrigation and planting plans to determine if proposed irrigation lines, sprinkler heads, and tree plantings would penetrate fill and geotextile fabric placed above the intact midden deposits (Lee/Brennan Associates 1998:Sheets 7 and 8). Two proposed irrigation lines on the east half of the intact midden would be in trenches excavated into 28 inches of fill, would not penetrate the geotextile fabric covering the contemporary ground surface, and would be at least three feet above the recorded surface of intact midden deposits (Lee/Brennan Associates 1998:Sheet 7). Douglas fir, paper birch, and Pacific dogwood trees would be planted along the east edge of intact midden deposits in the City of Seattle property and at the southwest edge of the Seaboard Lumber Site Aquatic Habitat Restoration project area, in Port of Seattle property (Lee/Brennan Associates 1998:Sheet 8). Excavations for root balls of trees would be in at least three feet of fill above geotextile fabric and would not

penetrate below geotextile fabric covering the contemporary ground surface (Lee/Brennan Associates 1998:Sheet 18).

DETERMINATION OF EFFECT

Proposed construction for the Seaboard Lumber Site Aquatic Habitat Restoration Project would not adversely affect intact cultural deposits associated with the Duwamish No. 1 Site (45KI23). Construction plans were modified to place additional fill on top of existing fill which covers intact midden deposits. Geotextile fabric will be placed on ground surfaces which do not have a thick asphalt cap to mark contemporary ground surfaces and to stop downward movement of fill into midden deposits. Construction equipment will not traverse the ground surface in the midden area and a proposed parking lot on the western portion of the midden would be on a total of six to eight feet of fill over intact midden deposits and would be on geotextile fabric. Proposed plantings, irrigation lines, and sprinkler heads would be within new fill placed on geotextile fabric or on existing asphalt paving and would not be within three vertical feet of recorded midden deposits.

I look forward to receiving your review of this Determination of Effect. Please do not hesitate to call me at (206) 684-7053 should you have questions about the Seaboard project. Please contact Dennis Lewarch or Lynn Larson, of LAAS, at (206) 782-0980 if you have any questions regarding the LAAS evaluation of the construction plans for the project.

Sincerely,

Kevin B. Stoops

cc. Bennie Armstrong, Chairman, Suquamish Tribe
Charles Sigo, Tribal Council, Suquamish Tribe
John Daniels, Jr., Chairman, Muckleshoot Indian Tribe
Walter Pacheco, Community Services Director, Muckleshoot Indian Tribe
Cecile Hansen, Duwamish Tribe
James Rasmussen, Duwamish Tribe

Seaboardlumberdoe.wpg\kbs\slb

BIBLIOGRAPHY

Lee/Brennan Associates

1998 Seattle Department of Parks and Recreation Seaboard Lumber Aquatic Enhancement Project, 100% Design Submittal. Lee/Brennan Associates, Seattle, 18 May.

Robbins, Jeffrey R., Lynn L. Larson, and Dennis E. Lewarch

1998 *Seaboard Lumber Aquatic Restoration Project Seattle, King County, Washington Cultural Resource Assessment.* Larson Anthropological Archaeological Services Limited, Seattle. LAAS Technical Report #98-3. Prepared for the City of Seattle, Department of Parks and Recreation.

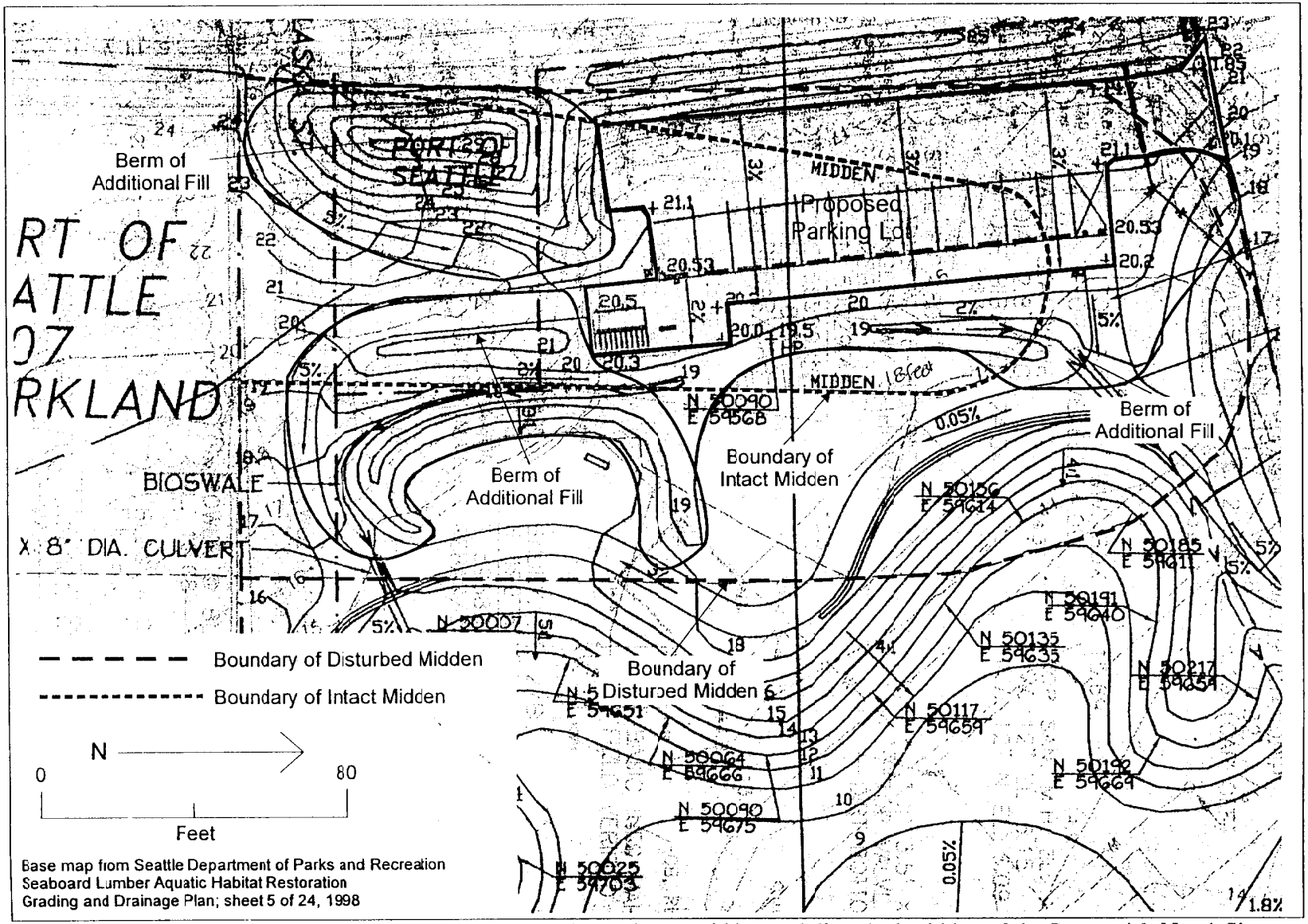


Figure 2. Locations of fill and proposed parking lot relative to intact midden and disturbed midden of the Duwamish No. 1 Site (45KI23) within the southwest corner of the Seaboard Lumber Aquatic Habitat Restoration project area.

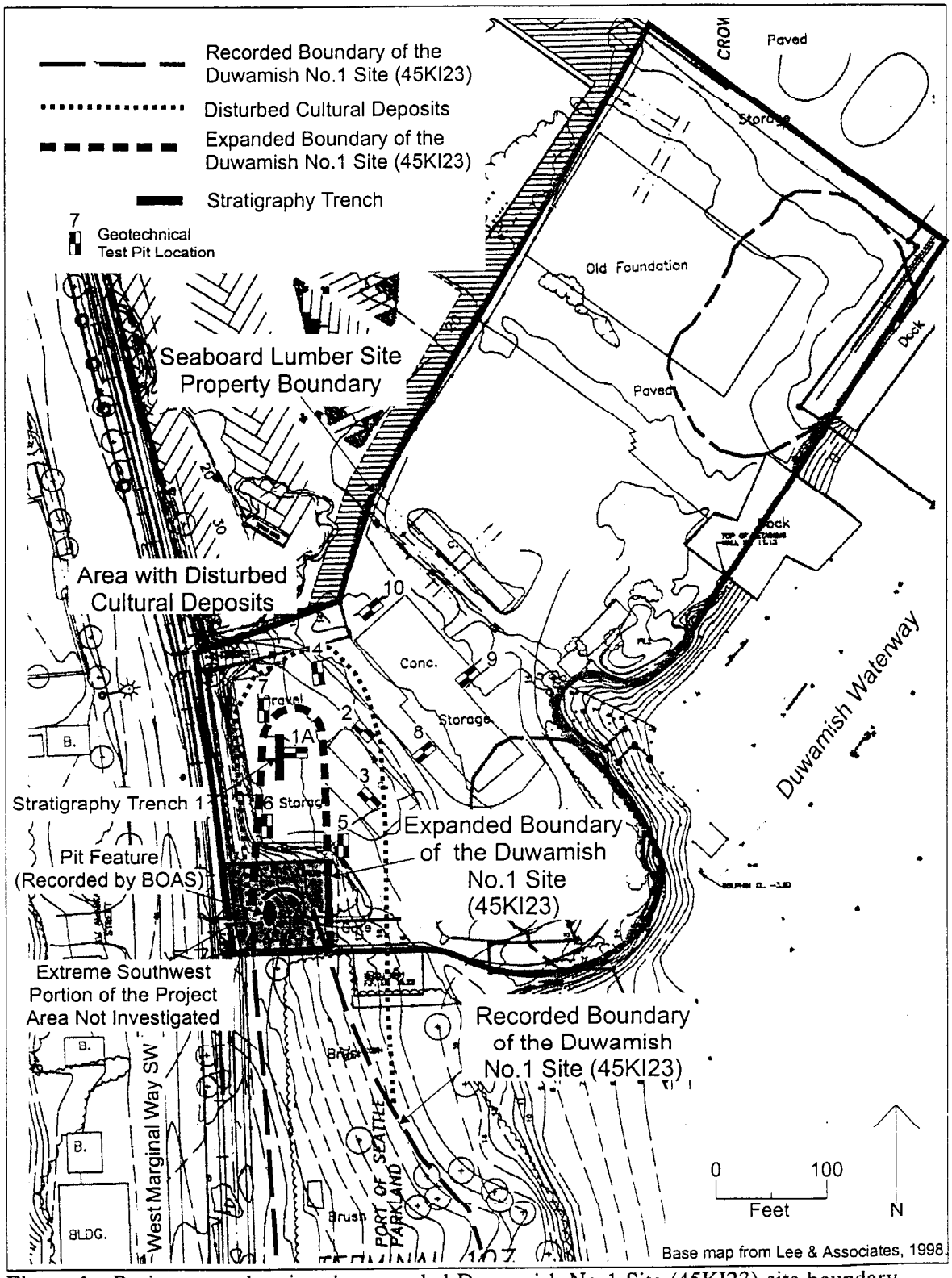


Figure 1. Project area showing the recorded Duwamish No.1 Site (45KI23) site boundary and associated intact and disturbed cultural deposits identified within the Seaboard Lumber Site Aquatic Habitat Restoration project area during archaeological field reconnaissance.

City of Seattle
Paul Schell, Mayor

Seattle Department of Parks and Recreation
Kenneth R. Bounds, Superintendent

July 13, 1998

Robert Clark
NOAA Damage Assessment Center
7600 Sand Point Way N.E.
Seattle, WA 98115

Subject: SEABOARD AQUATIC HABITAT RESTORATION
Archeological Determination of Effect-State Concurrence

Dear Mr. Clark:

Enclosed please find a copy of a letter from the State Archeologist to note his concurrence with the Determination of Effect for the Seaboard Aquatic Habitat Restoration Project.

A copy of the Determination was previously supplied to your office (John Miller) on June 29, 1998, and with the state concurrence, we understand that the NEPA environmental assessment for the project can now be issued. Please let me know if further information is needed. I can be reached at 684-7053.

Sincerely,

Kevin B. Stoops,
Senior Planner

Encl.

KBS: SeaboardNOAA

2911 Second Avenue, 4th Floor, Seattle, WA 98121-1079
Tel: (206) 684-4075, TDD: (206) 233-7061

STATE OF WASHINGTON
DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT
Office of Archaeology and Historic Preservation
420 Golf Club Road SE, Suite 201, Lacey • PO Box 48343 • Olympia, Washington 98504-8343 • (360) 407-0752
Fax Number (360) 407-6217

July 7, 1998

Mr. Kevin B. Stoops
Seattle Department of Parks & Recreation
2911 Second Avenue, 4th Floor
Seattle, WA 98121-1079

Log: 070698-02-NOAA
RE: Seaboard Lumber Aquatic Habitat Restoration Project

Dear Mr. Stoops;

Thank you for contacting our office concerning the proposed Aquatic Habitat Restoration Project at the Seaboard Lumber property that contains the Duwamish No. 1 site; 45KI23. We reviewed the plan that has been developed by Larson Anthropological Archaeological Services, Limited and detailed in your letter.

We concur with the determination of No Adverse Effect. Thank you for your efforts in protecting and preserving this significant archaeological site.

Sincerely,

Robert G. Whitlam, Ph.D.
State Archaeologist

DEPARTMENT OF THE ARMY
SEATTLE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 3755
SEATTLE, WASHINGTON 98124-2255

RECD APR 30 1998

REPLY TO ATTENTION OF
Regulatory Branch

APR 28 1998

Mr. Jim Brennan, ASLA
Lee/Brennan Associates
100 South King Street, Suite 200
Seattle, Washington 98104

Reference: 98-2-00166
Seattle Parks Dept.

Dear Mr. Brennan:

Nationwide Permit (NWP) 38 authorizes the cleanup of hazardous and toxic waste subject of a Consent Decree that settled a 1991 lawsuit filed by the National Oceanic and Atmospheric Administration against the city of Seattle and METRO for damage to natural resources in Elliott Bay and the Duwamish River from the operation of storm and sanitary sewer systems that discharge into these waters. The proposed cleanup will include various habitat restoration activities. The project site is located in and adjacent to the Duwamish River at Seattle, Washington. The work must be performed as depicted on the enclosed drawings and you must meet specific requirements and conditions.

The regulations which govern our permit program contain a series of NWPs. Each NWP authorizes a specific category of work, provided certain conditions are met. The NWP 38 (Federal Register, December 13, 1996, Vol. 61, No. 241) authorizes "specific activities required to effect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency..." The entire text of NWP 38 and conditions are enclosed.

Prior to the start of construction, this project may require individual 401 Water Quality Certification (WQC) and Coastal Zone Management (CZM) Consistency Response from the State of Washington Department of Ecology. To obtain the appropriate certifications, you should contact:

Washington State Department of Ecology
Post Office Box 47600
Olympia, Washington 98504-7600
Telephone (360) 407-6918

You must send us a copy of all State authorizations for our file. In order for this NWP to be valid, you must comply with any conditions the State includes in their WQC and CZM Response.

This NWP verification will be valid for 2 years from the date of this letter or until the NWPs are modified, reissued, or revoked. If the project meets all the conditions, you will need no further authorization from us for the above described project.

You must still comply with other Federal, State, and local requirements which may pertain to the project. If you have any questions, please contact me at telephone (206) 764-6906.

Sincerely,

James D. Green, Project Manager
Application Review Section

Enclosures

PROPOSED:
INTERTIDAL MARSH CREATION
WITH VIEWPOINTS
IN: CITY OF SEATTLE
AT: SEABOARD LUMBER SITE
COUNTY OF: KING STATE: WA
APPL. BY: SEATTLE PARKS + RECREATION
DATE: JANUARY 30, 1998
FIGURE: 1 OF 12

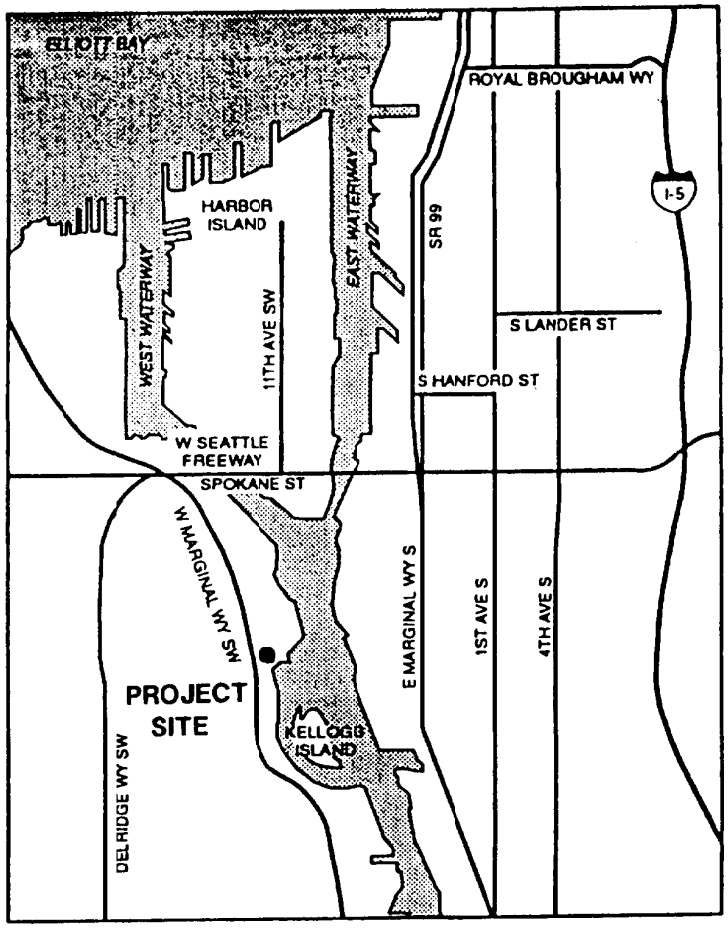
CITY OF SEATTLE
DEPARTMENT OF PARKS
AND RECREATION
(206) 684-7451

FACILITY TITLE
SEABOARD LUMBER
AQUATIC HABITAT RESTORATION

FIGURE 1. LOCATION MAP

PURPOSE:
FISHERIES HABITAT ENHANCEMENT.
PUBLIC VIEWING + EDUCATION
DATUM: MLLW=0.0 (N.O.S.)
ADJ. WATERFRONT PROPERTY OWNERS:
HOLLAND AMERICA, PORT OF SEATTLE,
+ CROWLEY MARITIME

PREPARED BY:
Lee/Brennan Associates
E C G International Inc.



Seaboard Lumber Site Location Map

N

NOT TO SCALE

N.LAT. = 47DEG. 33MIN. 42SEC
W.LONG. = 122DEG. 20 MIN. 59SEC

SEABOARD AQUATIC HABITAT ENHANCEMENT PROJECT

Report to the Corps of Engineers
01-30-98

Prepared by Lee/Brennan ECG International, Inc.
Prepared for The City of Seattle Department of Parks and Recreation

WETLAND NAME:
The project area includes two wetlands, Wetland A and the Duwamish Waterway.

WETLAND CATEGORY:
See Seaboard Wetland Delineation Report attached.

PRESENT USE:
The project site is presently vacant and unused.

TARGETED USE:
The project design provides intertidal marsh habitat for fisheries enhancement, viewing, passive recreation and public education purposes. A longer shoreline wil be created, which is naturalistic, planted with native trees, shrubs and groundcovers to provide food, cover and reproductive habitat for wildlife. The project will improve the visual quality and natural diversity of the waterway. Handicapped accessible paths and viewpoints will be created, in addition to an informal outdoor classroom space, interpretive signage and a small parking lot.

CLEARING STATISTICS:
Clearing of less than 400 sq.ft. of wetland vegetation is proposed. Upland clearing entails the removal of small areas of blackberry brambles and several alder saplings.

GRADING STATISTICS
Total site uplands: 5.7 acres
Total site submerged lands: 11 acres

Total Material Cut in Wetlands -
Total Material Cut in Wetland A = 30 CY (<200 SF area)

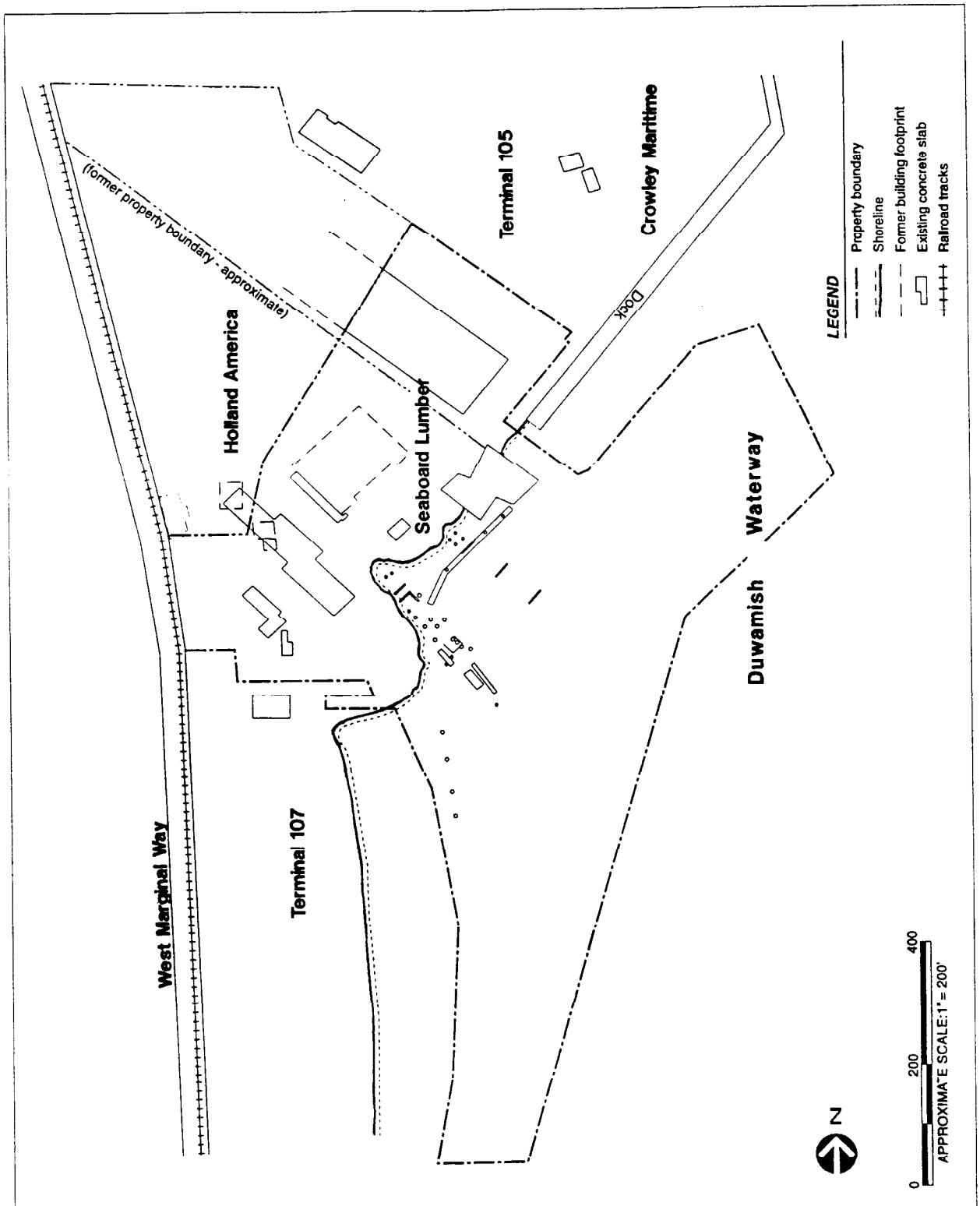
Total Fill Material in Wetlands -
Total fill in Wetland A= 30 CY (gravel and cobbles)
Total area of fill in Wetland A < 200 SF (0.005 acres)
Total fill in Duwamish Waterway = 270 CY (gravel and soil)
Total area of fill in Duwamish Waterway = 1460 SF (0.03 acres)
Total Shore Protection material to be placed on shoreline from MHHW (11.2 ft. MLLW) down = 12,520 CY of gravel and cobbles
Total area of Shore Protection material to be placed on shoreline from MHHW (11.2 ft. MLLW) down = 56,480 SF (1.3 acres)

Note: Shore Protection is recommended to provide an optimum substrate for the benthic community and salmonids, protected from the wave environment of the waterway. A naturalistic shore protection design is proposed using cobbles installed at a 4H:1V slope. Shoreline protection is also critical to insure that existing on site soils with residual concentrations of chemicals stay in place and do not enter the Waterway.

WETLAND ENHANCEMENT/RESTORATION
Total Area of Wetland created from MHHW (11.2 ft. MLLW) down = 77,300 SF (1.8 acres)

Restored Open Water by Removal of Existing Dock = 9,200 SF (0.21 acres)

SHORELINE LENGTH
Existing Shoreline Length at MHHW (11.2 ft. MLLW) = 1,350 LF
Proposed Shoreline Length at MHHW (11.2 ft. MLLW) = 3,400 LF



PROPOSED:
INTERTIDAL MARSH CREATION
WITH VIEWPOINTS
IN: CITY OF SEATTLE
AT: SEABOARD LUMBER SITE
COUNTY OF: KING STATE: WA
APPL. BY: SEATTLE PARKS + RECREATION
DATE: JANUARY 30, 1998
FIGURE: 2 OF 12

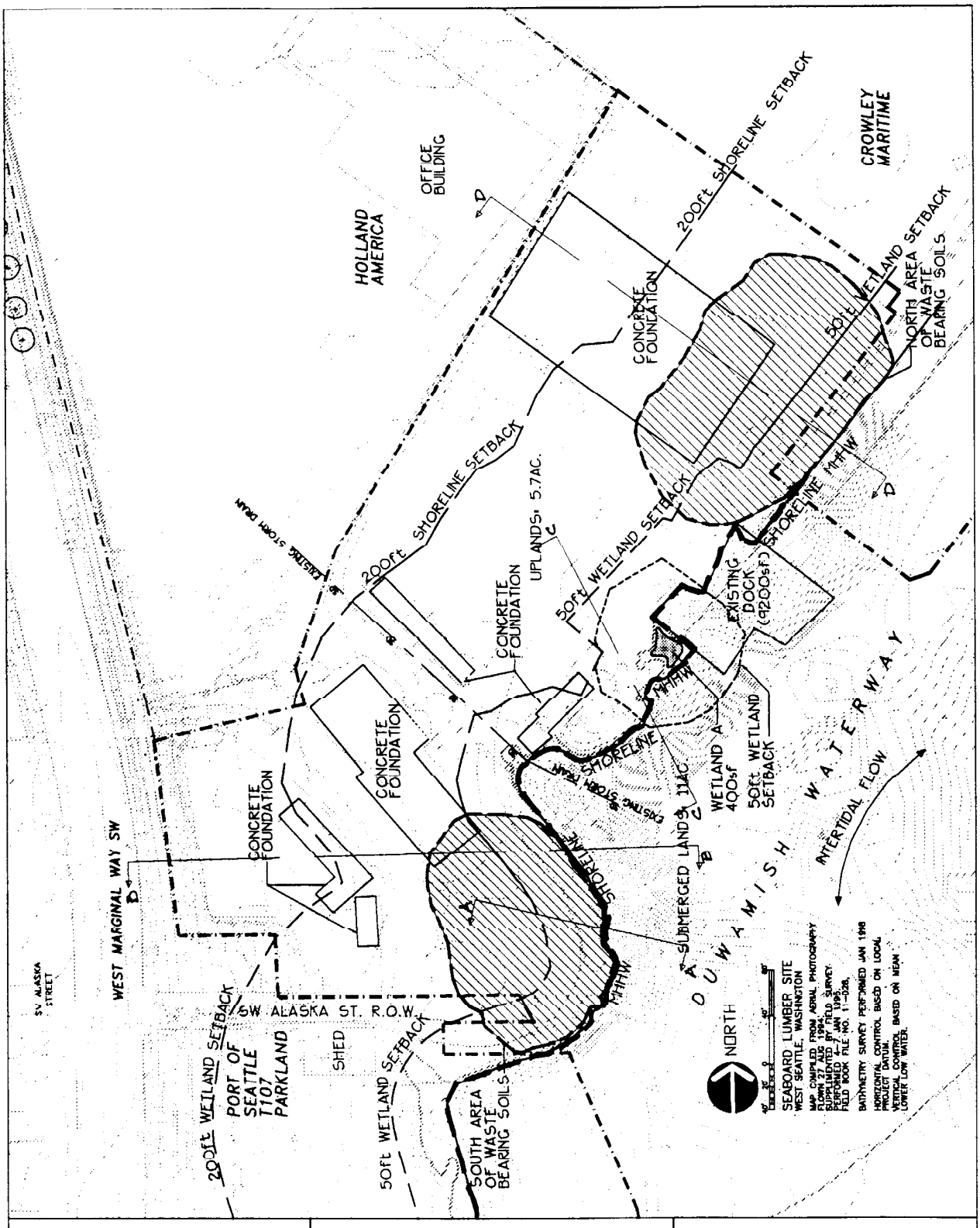
CITY OF SEATTLE
DEPARTMENT OF PARKS AND RECREATION
2011 SECOND AVE. 4th FLOOR (684-7031)

FACILITY TITLE
SEABOARD LUMBER
AQUATIC HABITAT RESTORATION

FIGURE 2. SITE VICINITY

PURPOSE:
FISHERIES HABITAT ENHANCEMENT,
PUBLIC VIEWING + EDUCATION
DATUM: MLLW=0.0 (N.O.S.)
ADJ. WATERFRONT PROPERTY OWNERS:
HOLLAND AMERICA, PORT OF SEATTLE,
+ CROWLEY MARITIME

PREPARED BY:
Lee/Brennan Associates
E C G International Inc.



PROPOSED:
INTERTIDAL MARSH CREATION
WITH VIEWPOINTS
IN: CITY OF SEATTLE
AT: SEABOARD LUMBER SITE
COUNTY OF: KING STATE: WA
APPL. BY: SEATTLE PARKS + RECREATION
DATE: JANUARY 30, 1998
FIGURE: 3 OF 12

CITY OF SEATTLE
DEPARTMENT OF PARKS AND RECREATION
2511 SECOND AVE. 4th FLOOR (684-7031)

FACILITY TITLE
SEABOARD LUMBER
AQUATIC HABITAT RESTORATION

FIGURE 3. EXISTING CONDITIONS

PURPOSE:
FISHERIES HABITAT ENHANCEMENT.
PUBLIC VIEWING + EDUCATION
DATUM: MLLW=0.0 (N.O.S.)
ADJ. WATERFRONT PROPERTY OWNERS: HOLLAND AMERICA, PORT OF SEATTLE, + CROWLEY MARITIME

PREPARED BY:
Lee/Brennan Associates
E C G International Inc.

PROPOSED:
INTERTIDAL MARSH CREATION
WITH VIEWPOINTS
IN: CITY OF SEATTLE
AT: SEABOARD LUMBER SITE
COUNTY OF: KING STATE: WA
APPL. BY: SEATTLE PARKS + RECREATION
DATE: JANUARY 30, 1998
FIGURE: 4 OF 12

CITY OF SEATTLE
DEPARTMENT OF PARKS AND RECREATION
2811 SECOND AVE. 4th FLOOR (684-7031)

FACILITY TITLE
SEABOARD LUMBER
AQUATIC HABITAT RESTORATION

FIGURE 4. PROPOSED DESIGN

PURPOSE:
FISHERIES HABITAT ENHANCEMENT.
PUBLIC VIEWING + EDUCATION
DATUM: MLLW=0.0 (N.O.S.)
ADJ. WATERFRONT PROPERTY OWNERS: HOLLAND AMERICA, PORT OF SEATTLE, + CROWLEY MARITIME

PREPARED BY:
Lee/Brennan Associates
E C G International Inc.

PROPOSED:
INTERTIDAL MARSH CREATION
WITH VIEWPOINTS
IN: CITY OF SEATTLE
AT: SEABOARD LUMBER SITE
COUNTY OF: KING STATE: WA
APPL. BY: SEATTLE PARKS + RECREATION
DATE: JANUARY 30, 1998
FIGURE: 5 OF 12

CITY OF SEATTLE
DEPARTMENT OF PARKS AND RECREATION
2511 SECOND AVE. 4th FLOOR (684-7031)

FACILITY TITLE
SEABOARD LUMBER
AQUATIC HABITAT RESTORATION

FIGURE 5. PROPOSED SHORELINE MODIFICATIONS

PURPOSE:
FISHERIES HABITAT ENHANCEMENT,
PUBLIC VIEWING + EDUCATION
DATUM: MLLW=0.0 (N.O.S.)
ADJ. WATERFRONT PROPERTY OWNERS: HOLLAND AMERICA, PORT OF SEATTLE, + CROWLEY MARITIME

PREPARED BY:
Lee/Brennan Associates
E O G International Inc.

PROPOSED:
INTERTIDAL MARSH CREATION WITH VIEWPOINTS
IN: CITY OF SEATTLE
AT: SEABOARD LUMBER SITE
COUNTY OF: KING STATE: WA
APPL. BY: SEATTLE PARKS + RECREATION
DATE: JANUARY 30, 1998
FIGURE: 6 OF 12

CITY OF SEATTLE
DEPARTMENT OF PARKS AND RECREATION
2711 SECOND AVE. 4th FLOOR (684-7031)

FACILITY TITLE
SEABOARD LUMBER
AQUATIC HABITAT RESTORATION

FIGURE 6. EROSION/SEDIMENTATION CONTROL PLAN

PURPOSE:
FISHERIES HABITAT ENHANCEMENT.
PUBLIC VIEWING + EDUCATION
DATUM: MLLW=0.0 (N.O.S.)
ADJ. WATERFRONT PROPERTY OWNERS:
HOLLAND AMERICA. PORT OF SEATTLE.
+ CROWLEY MARITIME

PREPARED BY:
Lee/Brennan Associates
E C G International Inc.

EROSION/SEDIMENTATION CONTROL MEASURES:

The contractor shall use proper erosion and sediment control practices, whether or not shown on the Drawings, to prevent upland sediments and other debris from entering the waterway. These may include, but shall not necessarily be limited to, constructing temporary swales which direct on site runoff into the temporary sedimentation basin, placing sand bags to separate work areas from flowing water; placing mulch on exposed areas; installing erosion control fabric; placing straw on bare soils; covering stockpiles with plastic; and any other measures that may be warranted by site and weather conditions, or as requested by the Owner.

The contractor shall place a 2" thick layer of straw mulch and/or hydromulch over all exposed upland soils subject to erosion during periods of wet weather, or as directed by the owner.

Shoreline protection construction (shoreline armoring) and other marine construction will be performed in a manner that minimizes erosion of existing soils. A silt curtain can be placed around marine construction activity to minimize sediment resuspension, if resuspension of fines is a concern. The silt curtain would extend from the water surface to the marine floor, to isolate any suspended sediments from the adjacent marine environment.

The HPA closure period: mid-March through mid-June, will be adhered to.

PROPOSED:
INTERTIDAL MARSH CREATION
WITH VIEWPOINTS
IN: CITY OF SEATTLE
AT: SEABOARD LUMBER SITE
COUNTY OF: KING STATE: WA
APPL. BY: SEATTLE PARKS + RECREATION
DATE: JANUARY 30, 1998
FIGURE: 7 OF 12

CITY OF SEATTLE
DEPARTMENT OF PARKS AND RECREATION
2911 SECOND AVE. 4th FLOOR (684-7031)

FACILITY TITLE
SEABOARD LUMBER
AQUATIC HABITAT RESTORATION

FIGURE 7. SECTION–A & C

PURPOSE:
FISHERIES HABITAT ENHANCEMENT.
PUBLIC VIEWING + EDUCATION
DATUM: MLLW=0.0 (N.O.S.)
ADJ. WATERFRONT PROPERTY OWNERS: HOLLAND AMERICA, PORT OF SEATTLE, + CROWLEY MARITIME

PREPARED BY:
Lee/Brennan Associates
E C G International Inc.

PROPOSED:
INTERTIDAL MARSH CREATION
WITH VIEWPOINTS
IN: CITY OF SEATTLE
AT: SEABOARD LUMBER SITE
COUNTY OF: KING STATE: WA
APPL. BY: SEATTLE PARKS + RECREATION
DATE: JANUARY 30, 1998
FIGURE: 8 OF 12

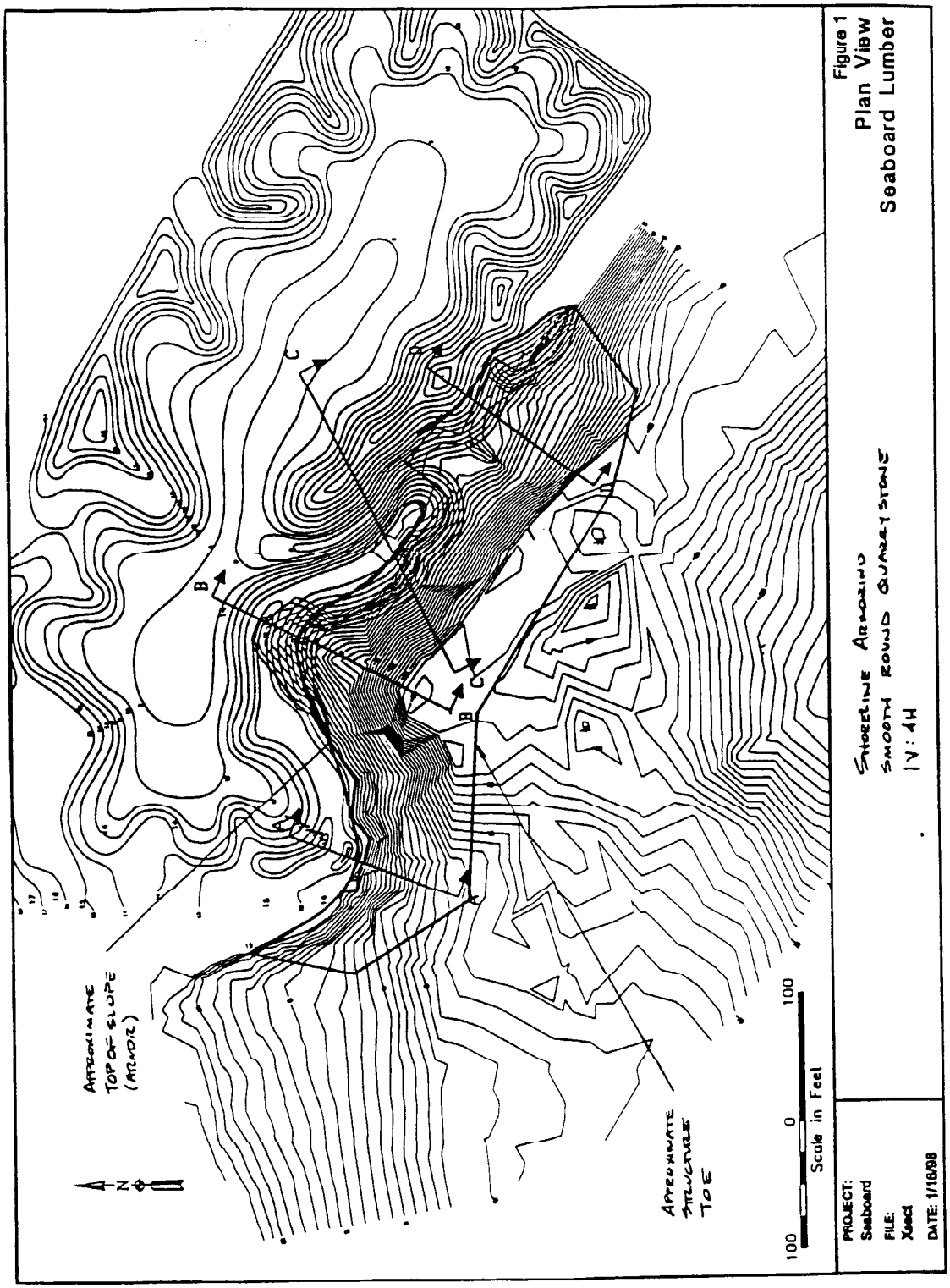
CITY OF SEATTLE
DEPARTMENT OF PARKS AND RECREATION
2911 SECOND AVE. 4th FLOOR (684-7031)

FACILITY TITLE
SEABOARD LUMBER
AQUATIC HABITAT RESTORATION

FIGURE 8. SECTION-B & D

PURPOSE:
FISHERIES HABITAT ENHANCEMENT.
PUBLIC VIEWING + EDUCATION
DATUM: MLLW=0.0 (N.O.S.)
ADJ. WATERFRONT PROPERTY OWNERS:
HOLLAND AMERICA, PORT OF SEATTLE, + CROWLEY MARITIME

PREPARED BY:
Lee/Brennan Associates
E C G International Inc.



PROPOSED:
INTERTIDAL MARSH CREATION
WITH VIEWPOINTS
IN: CITY OF SEATTLE
AT: SEABOARD LUMBER SITE
COUNTY OF: KING STATE: WA
APPL. BY: SEATTLE PARKS + RECREATION
DATE: JANUARY 30, 1998
FIGURE: 9 OF 12

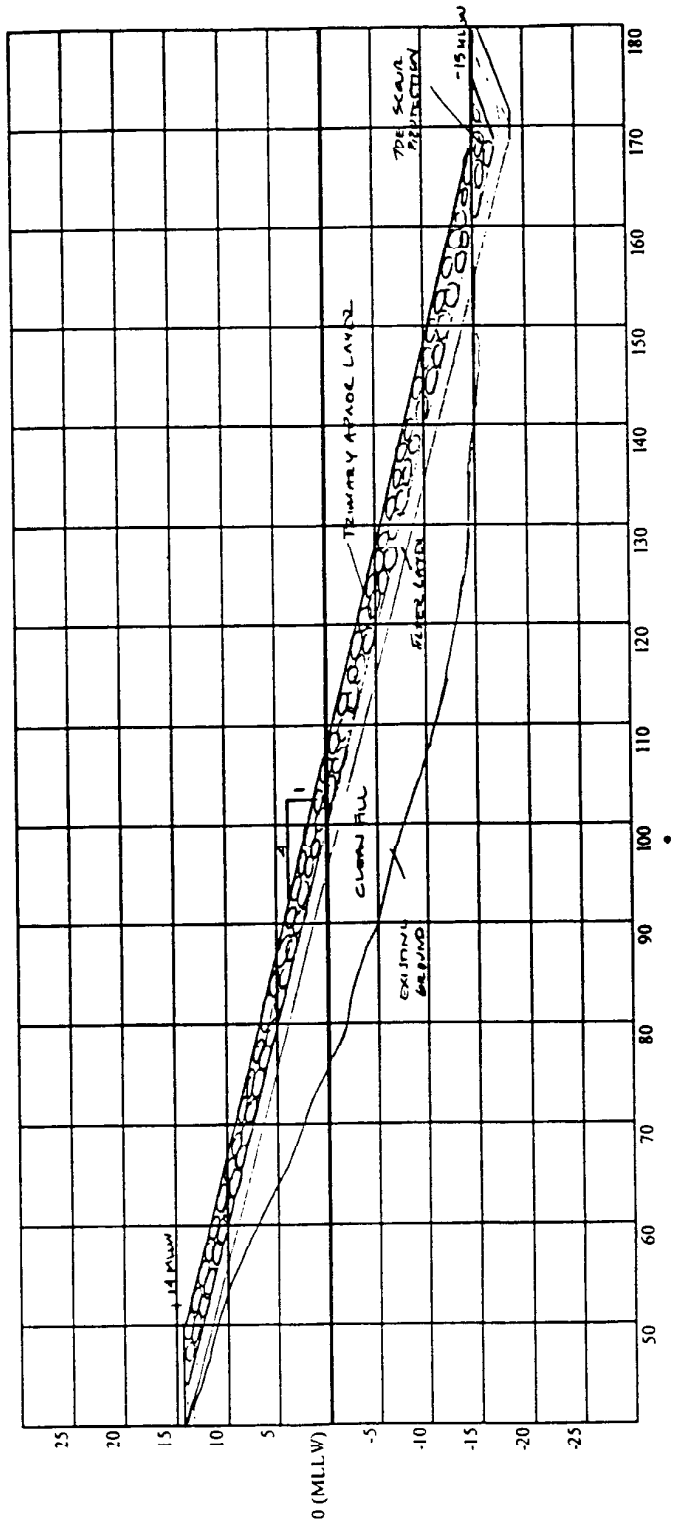
CITY OF SEATTLE
DEPARTMENT OF PARKS AND RECREATION
2711 ALASKAN AVE. 4th FLOOR (684-7481)

FACILITY TITLE
SEABOARD LUMBER
AQUATIC HABITAT RESTORATION

FIGURE 9.

PURPOSE:
FISHERIES HABITAT ENHANCEMENT.
PUBLIC VIEWING + EDUCATION
DATUM: MLLW=0.0 (N.O.S.)
ADJ. WATERFRONT PROPERTY OWNERS:
HOLLAND AMERICA, PORT OF SEATTLE.
+ CROWLEY MARITIME

PREPARED BY:
Lee/Brennan Associates
E G G International Inc.



Seaboard Lumber Aquatic Habitat Restoration
Typical Shoreline Protection, Cross Section

PROPOSED:
INTERTIDAL MARSH CREATION
WITH VIEWPOINTS
IN: CITY OF SEATTLE
AT: SEABOARD LUMBER SITE
COUNTY OF: KING STATE: WA
APPL. BY: SEATTLE PARKS + RECREATION
DATE: JANUARY 30, 1998
FIGURE: 10 OF 12

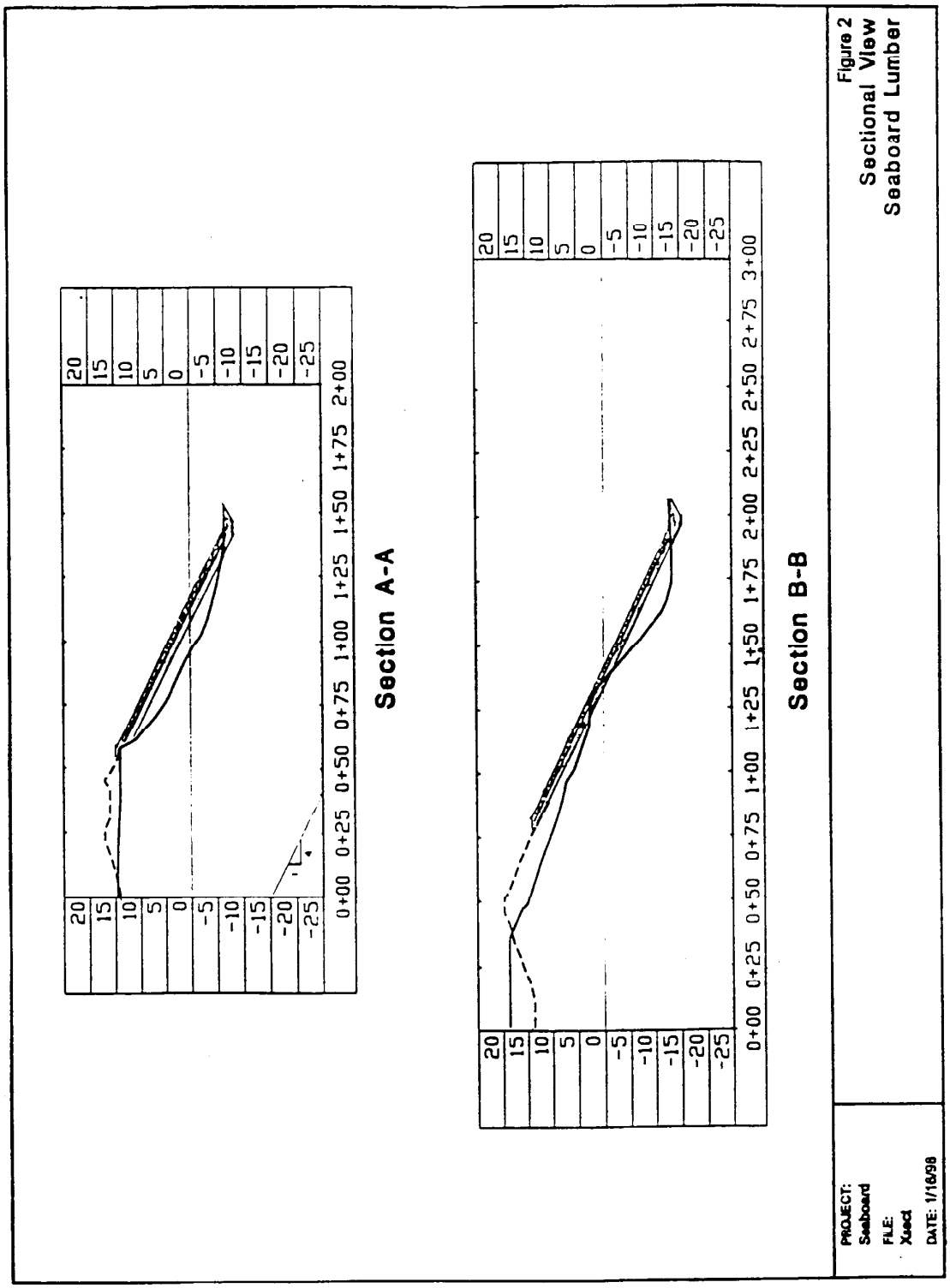
CITY OF SEATTLE
DEPARTMENT OF PARKS AND RECREATION
2311 SECOND AVE. 4th FLOOR (684-7031)

FACILITY TITLE
SEABOARD LUMBER
AQUATIC HABITAT RESTORATION

FIGURE 10.

PURPOSE:
FISHERIES HABITAT ENHANCEMENT.
PUBLIC VIEWING + EDUCATION
DATUM: MLLW=0.0 (N.O.S.)
ADJ. WATERFRONT PROPERTY OWNERS:
HOLLAND AMERICA, PORT OF SEATTLE,
+ CROWLEY MARITIME

PREPARED BY:
Lee/Brennan Associates
E C G International Inc.



PROPOSED:
INTERTIDAL MARSH CREATION
WITH VIEWPOINTS
IN: CITY OF SEATTLE
AT: SEABOARD LUMBER SITE
COUNTY OF: KING STATE: WA
APPL. BY: SEATTLE PARKS + RECREATION
DATE: JANUARY 30, 1998
FIGURE: 11 OF 12

CITY OF SEATTLE
DEPARTMENT OF PARKS
AND RECREATION
2211 SECOND AVE. 4th FLOOR (684-7031)

FACILITY TITLE
SEABOARD LUMBER
AQUATIC HABITAT RESTORATION

FIGURE 11.

PURPOSE:
FISHERIES HABITAT ENHANCEMENT.
PUBLIC VIEWING + EDUCATION
DATUM: MLLW=0.0 (N.O.S.)
ADJ. WATERFRONT PROPERTY OWNERS:
HOLLAND AMERICA PORT OF SEATTLE.
+ CROWLEY MARITIME

PREPARED BY:
Lee/Brannan Associates
E C G International Inc.

PROPOSED:
INTERTIDAL MARSH CREATION
WITH VIEWPOINTS
IN: CITY OF SEATTLE
AT: SEABOARD LUMBER SITE
COUNTY OF: KING STATE: WA
APPL BY: SEATTLE PARKS + RECREATION
DATE: JANUARY 30. 1998
FIGURE: 12 OF 12

CITY OF SEATTLE
DEPARTMENT OF PARKS
AND RECREATION
2211 SECOND AVE. 4th FLOOR (684-7031)

FACILITY TITLE
SEABOARD LUMBER
AQUATIC HABITAT RESTORATION

FIGURE 12.

PURPOSE:
FISHERIES HABITAT ENHANCEMENT.
PUBLIC VIEWING + EDUCATION
DATUM: MLLW=0.0 (N.O.S.)
ADJ. WATERFRONT PROPERTY OWNERS:
HOLLAND AMERICA. PORT OF SEATTLE.
+ CROWLEY MARITIME

PREPARED BY:
Lee/Brennan Associates
E C G International Inc.

38. CLEANUP OF HAZARDOUS AND TOXIC WASTE. Specific activities required to effect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority provided the permittee notifies the District Engineer in accordance with the "Notification" general condition. For discharges in special aquatic sites, including wetlands, the notification must also include a delineation of affected special aquatic sites, including wetlands. Court ordered remedial action plans or related settlements are also authorized by this NWP. This NWP does not authorize the establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste. Activities undertaken entirely on a CERCLA site by authority of CERCLA as approved or required by EPA, are not required to obtain permits under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act. (Sections 10 and 404)

Notification Requirement -- *Yes. See National General Condition 13 - Notification, for requirements.*

Regional Conditions -- *None.*

Puyallup Tribe 401 Certification -- *Denied without prejudice. An individual 401 Certification is required for all Section 404 activities.*

EPA and State 401 Certification -- *Partially denied without prejudice for cleanup activities unless authorized through a cleanup order from Ecology or EPA. An individual 401 Certification is required for all other activities.*

CZM Consistency Response -- *Partially denied without prejudice subject to the 401 Certification conditions. An individual CZM Consistency Response must be obtained for projects requiring individual 401 Certification and located within counties in the coastal zone.*

EXCERPT FROM CORPS OF ENGINEERS' SPECIAL PUBLIC NOTICE
DATED MARCH 5, 1997

NATIONAL CONDITIONS FOR NATIONWIDE PERMITS

The following general conditions must be followed in order for any authorization by a NWP to be valid.

GENERAL CONDITIONS:

1. **Navigation**. No activity may cause more than a minimal adverse effect on navigation.

2. **Proper Maintenance**. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

3. **Erosion and Siltation Controls**. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date.

4. **Aquatic Life Movements**. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water.

5. **Equipment**. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

6. **Regional and Case-By-Case Conditions**. The activity must comply with any regional conditions which may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps [Seattle District] or by the state or tribe in its Section 401 water quality certification.

7. **Wild and Scenic Rivers**. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely effect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service.)

8. **Tribal Rights**. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

9. **Water Quality Certification**. In certain states, an individual Section 401 water quality certification must be obtained or waived (see 33 CFR 330.4(c)).

10. **Coastal Zone Management**. In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see Section 330.4(d)).

11. **Endangered Species**.

(a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Non-Federal permittees shall notify the District Engineer if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

(b) Authorization of an activity by a nationwide permit does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., a Federal Endangered Species Act Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their world wide web pages at http://www.fws.gov/~r9endspp/endspp.html and http://kingfish.ssp.nmfs.gov/tmcintyr/prot_res.html#ES and Recovery, respectively.

[**NOTE**: See Regional General Conditions 6 and 7 for details on regional conditions for threatened and endangered species.]

12. **Historic Properties**. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the DE District Engineer] has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must

notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)).

13. **Notification**.

(a) **Timing**: Where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a Pre-Construction Notification (PCN) as early as possible and shall not begin the activity:

(1) Until notified by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or,

(2) If notified by the District or Division Engineer that an individual permit is required; or,

(3) Unless 30 days (or 45 days for NWP 26 only) have passed from the District Engineer's receipt of the notification and the prospective permittee has not received notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) **Contents of Notification**: The notification must be in writing and include the following information:

(1) Name, address, and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s) or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity; and

(4) For NWPs 14, 18, 21, 26, 29, 34, and 38, the PCN must also include a delineation of affected special aquatic sites, including wetlands (see paragraph 13.(f));

(5) For NWP 21, Surface Coal Mining Activities, the PCN must include an OSM [Department of the Interior, Office of Surface Mining] or State approved mitigation plan.

(6) For NWP 29, Single-Family Housing, the PCN must also include:

(i) Any past use of this NWP by the individual permittee and/or the permittee's spouse;

(ii) A statement that the single-family housing activity is for a personal residence of the permittee;

(iii) A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring 0.5 acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than 0.5 acre in size, a formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13.(f));

(iv) A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;

(7) For NWP 31, Maintenance of Existing Flood Control Projects, the prospective permittee must either notify the District Engineer with a Pre-Construction Notification (PCN) prior to each maintenance activity or submit a five year (or less) maintenance plan. In addition, the PCN must include all of the following:

(i) Sufficient baseline information so as to identify the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided that the approved flood control protection or drainage is not increased;

(ii) A delineation of any affected special aquatic sites, including wetlands; and

(iii) The location of the dredged material disposal site.

(8) For NWP 33, Temporary Construction, Access, and Dewatering, the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources.

(c) **Form of Notification:** The standard individual permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b)(1)-(7) [sic; (8) also] of General Condition 13. A letter may also be used. [**NOTE**: The Seattle District Corps also accepts the completed Joint Aquatic Resource Permit Application (JARPA) form as notification.]

(d) **District Engineer's Decision**: In reviewing the pre-construction notification for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may, optionally, submit a proposed mitigation plan with the pre-construction notification to expedite the process and the District Engineer will consider any optional mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects are minimal, the District Engineer will notify the permittee and include any conditions the DE deems necessary.

Any mitigation proposal must be approved by the District Engineer prior to commencing work. If the prospective permittee elects to submit a mitigation plan, the District Engineer will expeditiously review the proposed mitigation plan, but will not commence a second 30-day (or 45-day for NWP 26) notification procedure. If the net adverse effects of the project (with the mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant stating that the project can proceed under the terms and conditions of the nationwide permit.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then he will notify the applicant either:

(1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit;

(2) That the project is authorized under the NWP subject to the applicant's submitting a mitigation proposal that would reduce the adverse effects to the minimal level; or

(3) That the project is authorized under the NWP with specific modifications or conditions.

(e) **Agency Coordination**: The District Engineer will consider any comments from Federal and State agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(i) For NWP 14, 21, 26 (between 1 and 3 acres of impact), 29, 33, 37, and 38, the District Engineer will, upon receipt of a notification, provide immediately, e.g., facsimile transmission, overnight mail or other expeditious manner, a copy to the appropriate offices of the Fish and Wildlife Service, State natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the National Marine Fisheries Service. With the exception of NWP 37, these agencies will then have 5 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 10 calendar days (16 calendar days for NWP 26 PCNs) before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification. [**NOTE**: The Corps Seattle District requests one copy.]

(ii) Optional Agency Coordination. For NWPs 5, 7, 12, 13, 17, 18, 27, 31, and 34, where a Regional Administrator of EPA, a Regional Director of USFWS, or a Regional Director of NMFS has formally requested general notification from the District Engineer for the activities covered by any of these NWPs, the Corps will provide the requesting agency with notification on the particular NWPs. However, where the agencies have a record of not generally submitting substantive comments on activities covered by any of these NWPs, the Corps district may discontinue providing notification to those regional agency offices. The District Engineer will coordinate with the resources agencies to identify which activities involving a PCN that the agencies will provide substantive comments to the Corps. The District Engineer may also request comments from the agencies on a case by case basis when the District Engineer determines that such comments

would assist the Corps in reaching a decision whether effects are more than minimal either individually or cumulatively.

(iii) Optional Agency Coordination, 401 Denial. For NWP 26 only, where the state has denied its 401 water quality certification for activities with less than 1 acre of wetland impact, the EPA regional administrator may request agency coordination of PCNs between 1/3 and 1 acre. The request may only include acreage limitations within the 1/3 to 1 acre range for which the state has denied water quality certification. In cases where the EPA has requested coordination of projects as described here, the Corps will forward the PCN to EPA only. The PCN will then be forwarded to the Fish and Wildlife Service and the National Marine Fisheries Service by EPA under agreements among those agencies. Any agency receiving the PCN will be bound by the EPA timeframes for providing comments to the Corps.

(f) **Wetlands Delineations**: Wetland delineations must be prepared in accordance with the current method required by the Corps. For NWP 29 see paragraph (b)(6)(iii) for parcels less than 0.5 acres in size. The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 30-day period (45 days for NWP 26) will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

(g) **Mitigation**: Factors that the District Engineer will consider when determining the acceptability of appropriate and practicable mitigation include, but are not limited to:

(i) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes;

(ii) To the extent appropriate, permittees should consider mitigation banking and other forms of mitigation including contributions to wetland trust funds, "in lieu fees" to organizations such as The Nature Conservancy, state or county natural resource management agencies, where such fees contribute to the restoration, creation, replacement, enhancement, or preservation of wetlands.

Furthermore, examples of mitigation that may be appropriate and practicable include but are not limited to:

o Reducing the size of the project;

o Establishing wetland or upland buffer zones to protect aquatic resource values; and

o Replacing the loss of aquatic resource values by creating, restoring, and enhancing similar functions and values.

In addition, mitigation must address wetland impacts, such as functions and values, and cannot be simply used to offset the acreage of wetland losses that would occur in order to meet the acreage limits of some of the NWPs (e.g., for NWP 26, 5 acres of wetlands cannot be created to change a 6-acre loss of wetlands to a 1 acre loss; however, 2 created acres can be used to reduce the impacts of a 3-acre loss).

14. **Compliance Certification**. Every permittee who has received a Nationwide permit verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include:

a. A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;

b. A statement that any required mitigation was completed in accordance with the permit conditions;

c. The signature of the permittee certifying the completion of the work and mitigation.

15. **Multiple Use of Nationwide Permits**. In any case where any NWP number 12 through 40 is combined with any other NWP number 12 through 40, as part of a single and complete project, the permittee must notify the District Engineer in accordance with paragraphs a, b, and c on the "Notification" General Condition number 13. Any NWP number 1 through 11 may be combined with any other NWP without notification to the Corps, unless notification is otherwise required by the terms of the NWPs. As provided at 33 CFR 330.6(c) two or more different NWPs can be combined to authorize a single and complete project. However, the same NWP cannot be used more than once for a single and complete project.

NATIONAL CONDITIONS FOR NATIONWIDE PERMITS

SECTION 404 ONLY CONDITIONS:

In addition to the General Conditions, the following conditions apply only to activities that involve the discharge of dredged or

fill material into waters of the U.S., and must be followed in order for authorization by the NWPs to be valid:

1. **Water Supply Intakes**. No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.

2. **Shellfish Production**. No discharge of dredged or fill material may occur in areas of concentrated shellfish production, unless the discharge is directly related to a shellfish harvesting activity authorized by NWP 4.

3. **Suitable Material**. No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.,) and material discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

4. **Mitigation**. Discharges of dredged or fill material into waters of the United States must be minimized or avoided to the maximum extent practicable at the project site (i.e., on-site), unless the District Engineer approves a compensation plan that the District Engineer determines is more beneficial to the environment than on-site minimization or avoidance measures.

5. **Spawning Areas**. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

6. **Obstruction of High Flows**. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

7. **Adverse Effects from Impoundments**. If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

8. **Waterfowl Breeding Areas**. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

9. **Removal of Temporary Fills**. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.